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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/480,344	01/10/2000	KEVIN MICHAEL RUPPELT	9D-EC-19337	4210
7590	04/07/2006		EXAMINER	
John S. Beulicck Armstrong Teasdale LLP Suite 2600 One Metropolitan Square St. Louis, MO 63102			SMITH, JEFFREY A	
			ART UNIT	PAPER NUMBER
			3625	
DATE MAILED: 04/07/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/480,344	RUPPELT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jeffrey A. Smith	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 January 2006.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3-9,11-14,16-26 and 28-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3-9,11-14,16-26 and 28-45 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 10 January 2000 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

Art Unit: 3625

**DETAILED ACTION**

***Response to Amendment***

The response filed January 12, 2006 has been entered and considered.

***Response to Amendment***

Claims 1, 3-9, 11-14, 16-26, and 28-45 are pending.

Claims 1, 9, 11, 14, 19-25 have been currently amended.

Claims 2, 10, 15, and 27 have been cancelled.

An action on the merits follows.

***Claim Objections***

Claim 23 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

The recitation of claim 23 is redundant of that already present in amended claim 19.

Art Unit: 3625

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 38-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation of a "web page" is not consistent with the "computer" set forth in claim 19.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-9, 11-14, 16-26, and 28-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rofrano (U.S. Patent

Art Unit: 3625

No. 6,035,283) in view of Sammon, Jr. et al. (U.S. Patent No. 6,012,051) and further in view of Janssen (U.S. Patent No. 5,754,850).

Rofrano discloses a method, tool, computer, and program product for product selection assistance (col. 1, lines 6-14) comprising, *inter alia*, receiving a product category selection (col. 4, lines 34-38); matching the selection against a product database (abstract); displaying a product matrix (col. 3, lines 55-62; and Table 1); presenting a configuration question (col. 4, lines col. 39-42); receiving a configuration answer (col. 4, lines 34-38); and responsively updating the product matrix comprising removing the selected product configuration parameter from the matrix (note box "207" in Fig. 2; and col. 3, lines 55-62). Product color is disclosed (col. 3, lines 55-57). The database described by Rofrano is interpreted as comprising a hard disk storage medium. Model identifiers are considered to be disclosed under the category "ProductName" in Table 1. Such model identifiers are considered to be Rofrano's generic representations of brand name.

Rofrano does not disclose displacing the selected product configuration parameter to a visible location outside the product matrix.

Art Unit: 3625

Sammon, Jr., however, in a similar product selection method, tool, and program product (col. 1, lines 6-12) teaches maintaining selected product configuration parameters along a side of a navigation window (col. 12, lines 19-43; and Fig. 4: "200"--"203").

It would have been obvious to one of ordinary skill in the art to have provided the invention of Rofrano to have included displacing the selected product configuration parameter to a visible location outside the product matrix in order to have assisted the user regarding the user's position in a sequence of questions/answers as well as the user's progress in narrowing the product choices (Sammon, Jr.: col. 12, lines 44-48).

Although the combination of Rofrano and Sammon, Jr. et al. teaches displacing the selected product configuration parameter to a visible location outside the product matrix, the combination of Rofrano and Sammon, Jr. et al. does not teach displaying outside the product matrix the product configuration answer, per se. The Examiner notes that such feature is described in the instant specification at the paragraph bridging pages 9 and 10 and is shown in Figure 4 (e.g. "404").

Now comes Janssen.

Janssen, in a similar method, tool, and program product for product selection assistance (col. col. 1, lines 12-16; and col.

Art Unit: 3625

4, line 32-col. 5, line 3). Janssen teaches that a product configuration question is presented to a user who responds with an answer to such question. Janssen further teaches that the user is provided with a screen which progressively displays a cumulative listing of the answers (i.e. configuration parameters) provided by the user. Applicant's attention is directed to Figures 3 and 4 and col. 4, lines 39-41. For example, Figure 4 has an additional entry (as compared to Figure 3) of "\$350,000". The additional entry indicates that the user selected \$350,000 as the maximum price in display screen 300 of Figure 3 (see col. 4, lines 49-52).

It would have been obvious to one of ordinary skill in the art to have further modified the combination of Rofrano and Sammon, Jr. et al. to have to have included the teaching of Janssen of providing the product configuration answers in a manner consistent with the provision of the product configuration parameters already taught by Sammon, Jr. et al. in order that the user may be continuously apprised of all previous configuration answers at any point in their selection process thereby providing a cumulative listing of their navigation through product selection choices to that point and visually presenting the user a ready reference to all chosen configuration values (consistent with the teaching of Sammon,

Art Unit: 3625

Jr. et al. noted above) and in order to decide whether to move forward in the process or to move backward in the process (depending on whether or not previous selections are providing desired results) (see Janssen: col. 4, lines 39-43).

Regarding claim 11

See Rofrano at col. 4, line 29-col. 4, line 42.

Regarding claims 13, and 18

See Rofrano (first Q/A) at col. 4, lines 53-54.

Regarding claims 3, 16, and 28

The combination of Rofrano and Sammon, Jr. et al. does not teach inserting an additional product configuration parameter in the product matrix to replace the selected product configuration.

However, it is noted that Rofrano teaches a question script (col. 4, lines 42-65) which amounts to a succession of questions that are presented once an answer to a previous question is answered. Rofrano also teaches that each answer has the ability to link other lines of questioning--thereby creating the "Question and Answer Tree" (col. 3, lines 46-52).

Art Unit: 3625

It would have been obvious to one of ordinary skill in the art to have further modified the combination of Rofrano and Sammon, Jr. et al. to have inserted additional product configuration parameters in the product matrix to replace the selected product configuration parameter in order to continuously and dynamically update and fine tune the matrix owing to the "Question and Answer Tree" taught by Rofrano.

Regarding claims 30-45

The combination of Rofrano and Sammon, Jr. et al. does not teach that the products are specifically a refrigerator, a washer, a dryer, or an air conditioner.

Rofrano, however, teaches that his invention provides a way for employing the vast knowledge of a skilled sales agent to assist actual shoppers using an electronic catalog (col. 3, lines 8-10). Rofrano uses an example of a camera as a type of product which often requires knowledgeable input from a sales agent.

Despite being silent to other specific products, it is clear that products such as refrigerators, washers, dryers, and/or air conditioners could have been employed in the Rofrano invention. This is because such products are known to be offered in various configurations across brand lines and across

Art Unit: 3625

model lines, for example. The input of a skilled sales agent is invaluable when trying to arrive at a selection of one of these products in the same manner as arriving at a selection of a camera (as already taught by Rofrano).

Accordingly, it would have been obvious to one of ordinary skill in the art to have further provided the combination of Rofrano and Janssen to have allowed for the consideration of refrigerators, washers, dryers, and/or air conditioners in order to have provided the benefit of the knowledge of a sales agent in the complex consideration of such products.

Regarding claims 4, 6, 9, 17, 19-24, 29, and 38-41

Rofrano does not explicitly disclose a "web" environment, and accordingly Rofrano does not explicitly teach user interfaces typical of a "web" environment. Such interfaces include toggle buttons, other buttons (i.e. "Compare" buttons), hyperlinks, etc....

However, it is noted that Rofrano recognizes that similar product selection methods, tools, and program products are employed in a "web-type" environment. Rofrano acknowledges catalogs being offered through dial-up computer services such as PRODIGY (TM) (col. 1, lines 29-37).

Sammon, Jr. et al., however, employing a "web" environment by providing a web page comprising a plurality of user input interfaces (see Figs. 4-13 and their respective descriptions). Sammon, Jr. et al. teaches that such input interfaces may comprise check boxes (col. 12, lines 52-56), toggles (col. 13, lines 7-10), buttons (col. 13, lines 30-33), and, of course, support of hyperlinks (col. 5, lines 56-56-62).

It would have been obvious to one of ordinary skill in the art to have provided the invention of Rofrano to have been provided in a "web" environment and to have made use of known input interfaces such as web pages incorporating buttons, toggles, hyperlinks, etc... (such as taught by Sammon, Jr.) in order to have taken advantage of the World Wide Web as an extensive communications network.

Regarding claims 4, 24, and 29

Rofrano teaches the presentation of products for the purposes of providing a "side-by-side" comparison (col. 4, lines 38-41). Rofrano, however, does not teach the activation of toggle buttons and a "Compare" button to arrive at such "side-by-side" comparison.

Art Unit: 3625

However, and as noted above, Sammon, Jr. teaches the use of toggles and buttons in order to allow the user to input instructions to their "web-based" invention.

It would have been obvious to one of ordinary skill in the art to have provided the invention of Rofrano to have included the "web-based" functionality of Sammon, Jr. in order to have allowed the user to have designated products for a side-by-side comparison at any time and to have arrived at the "side-by-side" comparison display such as that already taught by Rofrano.

Regarding claim 6

Rofrano does not teach formatting model identifiers as hyperlinks.

However, and as noted above, Sammon, Jr. teaches the use of HTML which supports hyperlinking.

It would have been obvious to one of ordinary skill in the art to have hyperlinked any identifier in order to have provided an easily accessible source for information particular to the identifier. Such functionality of hyperlinking is well-known in the art and would have served to have provided cross-referencing between a page and other arrangements of related information-- i.e. one or more other pages.

Art Unit: 3625

Regarding claims 7 and 20

The combination of Rofrano and Sammon, Jr. does not teach the specific column headings recited here.

However, the differences between the Rofrano headings (see Table 1) and those of the instant invention lie solely in the nature of the descriptive material. In the instant case, the descriptive material is non-functional since it does not affect or effect the underlying display of data. Accordingly, such specific headings cannot serve to patentably distinguish the instant invention from any other obvious variation of the Rofrano headings--any such variations being obvious variations of the headings already taught by Rofrano.

Regarding claims 8 and 21

Rofrano, thus modified to include the obvious headings of claim 7, still does not provide an "input and sort" functionality.

However, and as discussed above, Sammon, Jr. teaches a "web" environment employing HTML.

It would have been obvious to one of ordinary skill in the art to have provided such well-known web functionality as an "input and sort" for the various displayed columns in order that

Art Unit: 3625

the user may organize the displayed data in a desired order (e.g. in ascending order by "Price").

Regarding claims 9, 17, and 22

Rofrano does not disclose formatting product parameters as a hyperlink.

However, the Examiner's position on this limitation is the same as that identified above with respect to claim 6.

***Response to Arguments***

Applicant's arguments filed January 12, 2006 have been fully considered but they are not persuasive.

Applicant's arguments directed to the failure of Rofrano, Sammon, and Janssen to provide displacing the selected product configuration parameter and a product configuration answer to a visible location outside the product matrix is not persuasive.

The references are relied upon in combination to provide a showing of evidence and motivation that one of ordinary skill in the art would have found it obvious to have modified Rofrano to have displaced selected product configuration parameters and product configuration answers to a visible location outside a product matrix of the type disclosed by Renfro. Applicant has not otherwise specifically pointed out how Sammon, Jr. et al.

Art Unit: 3625

and Janssen fail to teach this feature or how motivation is lacking for making the combination presented above.

Applicant's remarks directed to motivation lacking in the various references is not persuasive. The Examiner has either relied upon explicit teachings in the various references or on motivation which flows from the various references as provided in the bodies of the rejections. The Examiner notes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Applicant's remarks directed to "impermissible hindsight" are not persuasive. It must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

**Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3625

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Smith whose telephone number is (571) 272-6763. The examiner can normally be reached on M-F 6:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert M. Pond can be reached on 571-272-6760. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jeffrey A. Smith  
Primary Examiner  
Art Unit 3625

jas